

DEC 21 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL WENRICH; et al.,

Plaintiffs - Appellants,

v.

COUNTY OF LOS ANGELES; et al.,

Defendants - Appellees.

No. 04-55104

D.C. No. CV-02-07740-GAF

MEMORANDUM^{*}

**Appeal from the United States District Court
for the Central District of California
Gary A. Feess, District Judge, Presiding**

**Argued and Submitted October 17, 2005
Pasadena, California**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Michael Wenrich and Edward Pechy appeal from the adverse grant of summary judgment holding that the applicable statute of limitations bars their challenge to the Los Angeles County Sheriffs Office's mandatory retirement

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

policy. The facts and prior proceedings are known to the parties, and are restated herein only as necessary.

We determine a limitations period for a claim under 42 U.S.C. § 1983 by applying the forum state's statute of limitations for personal injury claims. *See, e.g., Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969 (9th Cir. 2004) (citing *Wilson v. Garcia*, 471 U.S. 261 (1985)). Under California law, that period is one year. Cal. Code Civ. Pro. § 340 (2005). Federal law, however, determines when a claim accrues. *Bagley v. CMC Real Estate Corp.*, 923 F.2d 758, 760 (9th Cir. 1991).

Under federal law, a § 1983 claim accrues when “the plaintiffs know or have reason to know of the injury that is the basis of their action.” *RK Ventures, Inc. v. City of Seattle*, 307 F.3d 1045, 1058 (9th Cir. 2002). Where an eventual allegedly unconstitutional firing is the result of an earlier operative act—such as the adoption of a policy—that sets in motion events that culminate in the firing, the date of the operative act—not the firing—determines the statute of limitations period under § 1983. *Delaware State Coll. v. Ricks*, 449 U.S. 250, 258 (1980); *see also Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 113 (2002). Therefore, the § 1983 claim accrued when the city adopted its mandatory retirement policy in 1997, and the appellants' claim is time-barred.

AFFIRMED.